

The Gazette of India

सत्यमेव जयते

PUBLISHED BY AUTHORITY

No. 5] NEW DELHI, SATURDAY, MARCH 10, 1951

PART II—Section 2

Bills and Report of Select Committees on Bills

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 28th February, 1951:—

BILL No. 12 of 1951

A Bill further to amend the Inland Steam-vessels Act, 1917.

Be it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Inland Steam-vessels (Amendment) Act, 1951.

2. **Amendment of section 1, Act I of 1917.**—In section 1 of the Inland Steam-vessels Act, 1917 (hereinafter referred to as the principal Act), for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—

“(2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that it shall not come into force in the States of Travancore-Cochin and Madras or in that part of the State of Orissa which on the 31st day of March, 1936, was included in the State of Madras, unless the State Government concerned, by notification in the Official Gazette, so directs.”

3. **Insertion of new Chapter IIIA in Act I of 1947.**—In the principal Act, after Chapter II, the following shall be inserted, namely:—

“CHAPTER IIIA.

REGISTRATION OF INLAND STEAM-VESSELS

19A. *Inland steam-vessels not to proceed on voyage or be used for service without certificate of registration.*—(1) An inland steam-vessel shall not proceed on any voyage or be used for any service, unless it has a certificate of registration in force in respect thereof and granted under this Act.

(2) Nothing in this section shall—

(a) apply to any steam-vessel built at any place other than a place of registry and making her first voyage to any such place for the purpose of registration; or

(b) be in derogation of the provisions contained in section 8.

19B. *Place of registry and registering authorities.*—(1) The State Government may, by notification in the Official Gazette,—

(a) declare such places within the territories under its administration as it thinks fit to be places of registry, and

(b) appoint registering authorities at the said places for the purposes of this Act.

(2) Every person appointed as a registering authority shall, for the purposes of any registration made by him, be deemed to be a public servant within the meaning of the Indian Penal Code (Act XLV of 1860).

19C. *Book of registration.*—At every place of registry, a book shall be kept by the registering authority in which all the particulars contained in the form of the certificate of registration shall be duly entered and such registering authority shall, immediately after registering any inland steam-vessel or within one month at the furthest, send to the State Government a true and exact copy, together with the number, of every certificate which shall be so granted by it.

19D. *Application for registration.*—An application for registration of an inland steam-vessel shall be made by the owner or master of the vessel in such form and shall contain such particulars as may be prescribed and shall be accompanied by a copy of the certificate of survey in force issued in respect of the vessel.

19E. Places of registration.—(1) Every application for registration shall be made to a registering authority within the local limits of whose jurisdiction the owner of the inland steam-vessel ordinarily resides or carries on business.

(2) Where the owner applying for a certificate of registration is a company registered under the Indian Companies Act, 1913 (VII of 1913), the application may be made to a registering authority within the local limits of whose jurisdiction the principal office of the company is situate.

(3) Notwithstanding anything contained in this section, an inland steam-vessel may be registered by a registering authority in any State, although the owner does not ordinarily reside or carry on business in that State or, if a company, the principal place of business of the company is not situate in that State:

Provided that the Government of the State in which the owner ordinarily resides or carries on business, or in the case of a company the Government of the State where the principal place of business of the company is situate, has accorded its previous approval thereto.

19F. *Grant of certificate of registration.*—(1) If, in respect of any inland steam-vessel, the registering authority, after making such inquiry as it thinks fit, is satisfied that the provisions of this Act or of any rules made thereunder have been complied with, it shall grant to the applicant therefor a certificate of registration comprising such particulars as may be prescribed.

(2) A registering authority may refuse to register an inland steam-vessel, if she is found to be mechanically defective, or if the applicant fails to furnish satisfactory evidence in support of any of the statements made in his application;

Provided that where the registering authority refuses to register any inland steam-vessel, it shall furnish to the applicant a statement in writing containing the reasons for such refusal.

19G. Automatic registration of inland steam-vessels registered under the Merchant Shipping Acts.—Where an application is made under this Act for the registration of an inland steam-vessel registered under the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), as amended by any subsequent enactment, the registering authority shall, on receipt of such application and any fee that may be prescribed, and, on being furnished with satisfactory proof of the fact of such registration, grant to the applicant a certificate of registration under this Act.

19H. Marking of inland steam-vessels.—Where an inland steam-vessel has been registered under this Chapter, the registering authority shall assign to the vessel, to be displayed thereon conspicuously in the prescribed manner, a distinguishing mark, hereinafter in this Act referred to as the registration mark.

19I. Prohibition against transfer of certificate of registration.—(1) A certificate of registration granted in respect of any inland steam-vessel shall be used only for the lawful navigation of that vessel.

(2) A certificate of registration in respect of an inland steam-vessel issued by a registering authority in one State shall be valid for that State only, but where any such vessel plies in inland waters of more than one State, nothing in this section shall be deemed to require the owner or master of the vessel to obtain a fresh certificate of registration in relation to the State or States in which the vessel is not so registered:

Provided that the owner of the vessel has not ceased to reside or carry on business in the State in which the vessel was originally registered.

19J. Registration of alterations.—(1) When an inland steam-vessel is so altered as not to correspond with the particulars relating to her or the description entered in the certificate of registration, then the owner of the vessel shall, within such period as may be prescribed, make a report of such alteration to the registering authority of the place where the vessel is registered.

(2) The report under sub-section (1) shall be made in such form and shall contain such particulars with respect to the alteration as may be prescribed and shall be accompanied by the certificate of registration in force in respect of the vessel at the time of the report.

(3) The registering authority, on receipt of the report under sub-section (1) and on payment of the prescribed fee, shall either cause the alteration to be registered or direct that the vessel be registered anew:

Provided that where the registering authority directs that the vessel be registered anew, it shall either grant a provisional certificate describing the vessel as altered or provisionally endorse the particulars of the alteration on the existing certificate.

(4) Any provisional certificate granted or endorsement made under the provisions of this section shall be valid for a period of one month from the date thereof, within which period the owner shall

cause all necessary steps to be taken to have the vessel registered anew.

19K. Transfer of registry.—(1) The registry of an inland steam-vessel may be transferred from one place in a State to another place in another State on the application by the owner or master of the vessel to the registering authority of the place where the vessel is registered.

(2) On receipt of such application, the registering authority shall transmit notice thereof to the registering authority of the intended place of registry with a copy of all particulars relating to the vessel.

(3) The certificate of registration in respect of the vessel shall be delivered up to the registering authority either of the existing or intended place of registry, and, if delivered up to the former, shall be transmitted to the registering authority of the intended place of registry.

(4) On receipt of the documents, referred to in sub-sections (2) and (3) and the prescribed fee, if any, the registering authority of the intended place of registry shall enter in its register book all the particulars so transmitted as aforesaid and grant a fresh certificate of registration in respect of the vessel and thenceforth such vessel shall be considered as registered at the new place of registry.

19L. Change of residence or place of business.—(1) If the owner of an inland steam-vessel ceases to reside or carry on business at the address recorded in the certificate of registration of the vessel, he shall, within thirty days of the change of address, intimate his new address to the registering authority by which the certificate of registration was granted, or, if the new address is within the jurisdiction of another registering authority, to that registering authority, and shall at the same time forward the certificate of registration to the registering authority in order that the new address may be entered thereon.

(2) Where a registering authority other than the original registering authority makes any such entry, it shall communicate the new address to the original registering authority.

19M. Prohibition against transfer of ownership of registered vessel.—(1) An inland steam-vessel registered under this Act in one State shall not be transferred to a person resident in another State in India or in any country outside India, without the previous approval of the Government of the State in which the vessel is registered:

Provided that where an inland steam-vessel is also registered under the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), as amended by any subsequent enactment, this sub-section shall have effect as if for the words "the Government of the State in which the vessel is registered", the words "the Central Government" had been substituted.

(2) Subject to the provisions of sub-section (1), the owner of an inland steam-vessel registered under this Act and the transferee thereof shall, within thirty days of the transfer of ownership of the said vessel to the transferee, jointly make a report of the transfer to the registering authority within the local limits of whose jurisdiction the transferee resides or carries on business and shall also forward the certificate of registration to that registering authority, together with the prescribed fee, in order that particulars of the transfer of ownership may be entered thereon.

19N. *Suspension of certificates of registration.*—(1) A registering authority may suspend, for such period and subject to such conditions as it thinks fit, the certificate of registration of an inland steam-vessel, if it has reason to believe that after the granting of the certificate the vessel has become unfit to ply in inland waters.

(2) Where the registration of an inland steam-vessel is suspended under sub-section (1) for a period of not less than one month, the registering authority ordering the suspension shall, if it is not the original registering authority, inform that other authority of the fact of such suspension.

(3) The registering authority suspending the certificate may require the owner or master of the vessel to deliver up the certificate so suspended to itself or, if it is not the original registering authority, to that other authority.

(4) A certificate of registration surrendered under this section shall be returned to the owner when the order suspending the certificate has been rescinded or has ceased to operate.

19O. *Cancellation of registration.*—(1) If an inland steam-vessel has been destroyed or has been rendered permanently unfit for service, the owner of the vessel shall, with the least practicable delay, report the fact to the registering authority of the place where the vessel is registered and shall also forward to that authority, along with the report, the certificate of registration of the vessel and thereupon the registering authority shall have the certificate of registration cancelled.

(2) Any registering authority may at any time require that any inland steam-vessel within the local limits of its jurisdiction may be inspected by such authority as the State Government may, by general or special order, appoint in this behalf and, if as a result of such inspection, the registering authority is satisfied that the vessel is in such a condition that it is not fit to ply in any inland water, the registering authority may, after giving the owner of the vessel an opportunity of being heard, cancel the registration of the vessel and require the owner thereof to surrender forthwith to the registering authority, the certificate of registration in respect of that vessel, if it has not already been so surrendered.

19P. *Appeals.*—(1) Any person aggrieved by an order—

(a) refusing to register any inland steam-vessel under section 19F;

(b) suspending a certificate of registration under section 19N; or

(c) cancelling a certificate of registration under sub-section (2) of section 19O,

may, within thirty days of the date on which he receives notice of such order, appeal against it to the State Government.

(2) The State Government shall cause notice of every such appeal to be given to the registering authority concerned in such manner as may be prescribed, and after giving an opportunity to that authority and to the appellant to be heard shall pass such order thereon as it thinks fit.

19Q. *Reciprocity*.—Where the Central Government is satisfied that by the law or practice of any country outside India, inland steam-vessels having a certificate of registration in force under this Act—

(a) obtain by reason of such registration any special exemption in that country while plying in the inland waters thereto, or

(b) are required as a condition of plying in the inland waters of that country to comply with any special requirement, whether by way of registration anew or payment of a fee or otherwise,

the Central Government may, by notification in the Official Gazette, for the purpose of reciprocity, direct that the same exemption or requirement, or an exemption or a requirement as similar thereto as may be, be granted to, or imposed upon, inland steam vessels registered in that country while plying in the inland waters of the territories to which this Act extends.

19R. *Power to make rules*.—(1) The State Government may make rules to carry out the objects of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the power, duties and functions of registering authorities and the local limits of their jurisdiction;

(b) prescribe the form of, and the particulars to be contained in, applications for, and certificates of, registration;

(c) provide for the form and manner in which books of registration shall be maintained under this Chapter;

(d) provide for the issue of duplicate certificates of registration to replace certificates lost, destroyed or mutilated?

(e) prescribe, subject to the approval of the Central Government, the fees to be charged for the registration of inland steam-vessels or for any other action to be taken by the registering authority under this Chapter, and provide for the exemption of any person or class of persons from payment of the whole or any part of any such fees;

(f) prescribe the period within which and the manner in which the owner of an inland steam-vessel shall make a report of any alteration in the vessel under section 19J;

(g) prescribe the manner in which appeals to the State Government may be preferred under this Chapter and the fees payable in respect of any such appeal;

(h) provide for any other matter which is to be or may be prescribed under this Chapter.”

4. Amendment of section 55, Act I of 1917.—In section 55 of the principal Act, after the word and figure “section 8”, in both the places where they occur, the words, figures and letter “or section 19A” shall be inserted.

5. Amendment of section 56, Act I of 1917.—In section 56 of the principal Act, after the words and figures “as required by section 10” the words, figures and letter “or if the registration mark is not displayed as required by section 19H” shall be inserted.

6. Substitution of new section for section 57, Act I of 1917.—For section 57 of the principal Act, the following section shall be substituted, namely:—

"67. Penalty for neglect or refusal to deliver up or surrender certificates of survey or registration.—If the owner or master of an inland steam-vessel without reasonable cause neglects or refuses—

(a) to deliver up a certificate of survey when required under section 14 so to do;

(b) to deliver up a certificate of registration when required under section 19N so to do; or

(c) to surrender a certificate of registration as required by section 19O,

he shall be punishable with fine, which may extend to one hundred rupees."

7. Insertion of new section 63A in Act I of 1917.—After section 63 of the principal Act, the following section shall be inserted, namely:—

"63A. General provision for punishment of offences not otherwise provided for.—If any person contravenes any of the provisions of this Act for which no other penalty is provided in this Act, he shall be punishable with fine which may extend to two hundred rupees."

8. Amendment of section 68, Act I of 1917.—In section 68 of the principal Act, for the words and figures "Chapters II and III", the words, figures and letter "Chapters II, II A and III", shall be substituted.

9. Insertion of new section 75 in Act I of 1917.—After section 74 of the principal Act, following section shall be inserted, namely:—

"75. Repeal and saving.—(1) If immediately before the day on which this Act comes into force in a Part B State, there is in force in that State any law which corresponds to this Act, such corresponding law shall, on that day stand repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any powers conferred by such corresponding law shall be deemed to have been done or taken in the exercise of the powers conferred by this Act, and any penalty incurred or proceeding commenced under such corresponding law shall be deemed to be a penalty incurred or proceeding commenced under this Act, as if this Act were in force on the day on which such thing was done, action taken, penalty incurred, or proceeding commenced."

STATEMENT OF OBJECTS AND REASONS

The Inland Steam-vessels Act, 1917, which regulates the operations of inland steam-vessels does not provide for the registration of such vessels. According to its existing provisions, all that a steam-vessel requires, before it can be employed on a voyage or service, is a certificate of survey in force and applicable to such voyage or service. The Merchant Shipping Act, 1894, contains a provision for the registration of inland steam-vessels exceeding 15 tons burden, but failure to register such vessels is not an offence under that Act. It is now considered necessary to make it obligatory for all inland steam-vessels to be registered under the Inland Steam-vessels

Act before they can be permitted to proceed on a voyage or service. The present Bill provides for this and other cognate matters. Vessels registered under the provisions of the Merchant Shipping Act, 1894, will be registered under this Act on payment of prescribed fees and the transfer of ownership of such vessels shall be subject to the approval of the Central Government.

K. SANTHANAM.

NEW DELHI ;
The 27th January, 1951.

BILL *No. 13 OF 1951

A Bill to give effect to the financial proposals of the Central Government for the year beginning on the 1st day of April, 1951.

Be it enacted by Parliament as follows:

1. Short title.—This Act may be called the Finance Act, 1951.

2. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (3), (4) and (5), for the year beginning on the 1st day of April, 1951,—

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule, increased in each case by a surcharge for the purposes of the Union at the rate specified therein in respect of each such rate of income-tax, and

(b) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (hereinafter referred to as "the Income-tax Act"), be those specified in Part II of the First Schedule, increased in the cases to which Paragraphs A, B and C of that Part apply, by a surcharge for the purposes of the Union at the rate specified therein in respect of each such rate of super-tax.

(2) In making any assessment for the year ending on the 31st day of March, 1952, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Income-tax Act, an amount equal to one-fifth of the earned income, if any, included in his total income but not exceeding in any case four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1952,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities", or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates appli-

* The President has, in pursuance of clauses (1) and (3) of Article 117 and clause (1) of Article 274 of the Constitution of India, recommended to the Parliament of India, the introduction and consideration of the Bill.

cable under the operation of the Finance Act, 1950, on his **XXV of 1950** total income the same proportion as the amount of such inclusions bears to his total income:

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable, according to the rates applicable under the operation of the Finance Act, 1950, on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March, 1952,—

(a) where the total income of a company includes any profits and gains from life insurance business, the super-tax otherwise payable by the company on the whole of such total income shall be reduced by an amount which bears to that super-tax the same proportion as the amount of such inclusion bears to its total income or by an amount computed at the rate of one and a half annas in the rupee on the amount of such inclusion, whichever is less;

(b) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable on his total income according to the rates applicable under the operation of the Indian Finance Act, 1942, increased in respect of each such rate by one-twentieth thereof, the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

XII of 1942

(5) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3) and (4) of this section.

(6) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1951, under sub-section (2) or sub-section(2-B) of section 18 of the Income-tax Act from any earned income chargeable under the head "Salaries", the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees; but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15 B of the Income-tax Act is or may be applicable.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6-AA) of section 2 of that Act.

3. Amendment of section 17, Act XI of 1922.—With effect from the 1st day of April, 1951, the following sub-section shall be substituted for sub-section (1) of section 17 of the Income-tax Act, namely:—

"(1) Where a person is not resident in the taxable territories and is not a company, the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount equal to—

(a) the income-tax which would have been payable on his total income if calculated at the maximum rate, *plus*

(b) either the super-tax which would have been payable on his total income if calculated at the rate applicable in the case of an individual to the slab next to the slab exempt from super-tax, or the super-tax which would have been payable on his total income if he had been resident in the taxable territories, whichever is greater:

Provided that any such person may, on the first occasion on which he is assessable for any year subsequent to the year ending on the 31st day of March, 1951, and before the expiry of the time allowed by the notice under sub-section (1) of section 22, by notice in writing to the Income-tax Officer declare (such declaration being final and being applicable to all assessments thereafter) that the tax, including super-tax payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon such tax shall be an amount bearing to the total amount of tax including super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income."

4. Alteration of certain duties of customs.—In the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934),—

(a) in Item No. 27(5), for the entry in the fourth column, the following entry shall be substituted, namely:—

"Three annas per Imperial gallon or 20 per cent. *ad valorem*, whichever is higher.";

(b) in Item No. 27(7), in the fourth column,

(i) for the entry against sub-item (a), the entry

"Rs. 18.12 per ton or 20 per cent. *ad valorem*, whichever is higher.", shall be substituted, and

(ii) for the entry against sub-item (b), the entry:

"20 per cent. *ad valorem*." shall be substituted;

(c) in Item No. 27(8), for the entry in the fourth column, the entry:

"Three annas per Imperial gallon or 20 per cent. *ad valorem*, whichever is higher."; shall be substituted;

(d) for Items Nos. 75(9), 75(10), and 75(11), the following Items shall be substituted, namely:—

“ 75 (9) The following articles, and parts thereof, adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters :—

(i) the following engine components : rubber mountings, hose pipes (other than fuel line hoses) with connections, fuel pump diaphragms, fan belts, mufflers, exhaust pipes and tail pipes ;

(ii) the following frame and body components : carpets (made to size or shape), cushion springs, door and window fittings excluding glasses, trim materials (leather, jute, canvas and leather cloth) made to size or shape, bus bodies, station wagon bodies, truck bodies, steel cabs for lorries, pick up bodies and parcel van bodies ; and

(iii) the following other components : gaskets all sorts, rubber components not otherwise specified and horns not otherwise specified.

75 (10) The following articles, and parts thereof, adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters :—

(i) the following engine components : crank shafts, cam shafts, connecting rods, cylinder blocks and heads, manifolds, valves, vale springs, valve tappets, fly wheels, petrol tanks, radiators, fans, piston assembly (namely, pistons, piston rings and gudgeon pins), cylinder liners, water pumps, and timing gears and sprockets ;

(ii) the following electrical components : lamps other than head lamps, wire harness, battery and other cables made to size and horns ;

(iii) the following transmission and suspension components : front and rear springs other than coil springs, king pins, shackles pins, shock absorbers, spring hanger brackets, shackles, transmission gear and gear box, clutch housings, propeller shafts, universal joints including needle bearings therefor, rear axle assembly (axle housing, axle shaft, ring gear, pinion and carrier differential), front axles, hubs and brake drums and front suspension excluding coil springs ;

(iv) the following frame and body components : seat runners, short members of chassis frame and brackets ; and

Preferential re-venue. 60% ad valorem. 54% ad valorem.

Preferential re-venue. 90% ad valorem. 84% ad valorem.

(v) the following other components :
brake hose pipes, ball bearings up to 2" bore, bushings separately imported (excluding oil impregnated bushings) and bumpers.

75 (11) The following articles, and parts thereof, adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters, namely :

(i) the following engine components : thin wall bearings, carburettors, oil pumps, air cleaners, oil filters, fuel pumps, and fuel line hoses with connections ;

(ii) the following electrical components : distributors, sparking plugs, direction indicators, electrical panel instruments, wind shield wipers, starting motors, generators, head lamps including sealed beams fuses, switches, ignition coils, and voltage and current regulators ;

(iii) the following transmission and suspension components : steering mechanisms, pressed wheels, clutches and suspension coil springs ;

(iv) the following frame and body components : toughened glass sheets, body panels including turret tops and sides for passenger cars and long members of chassis frames ; and

(v) the following other components : roller bearings, bushings (oil impregnated), panel instruments other than electrical, and brake cylinders.

75 (12) Articles [other than rubber tyres, tubes, batteries and such other components as are specified in Items Nos. 75(9), 75(10) and 75(11)] adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters,

75 (13) Parts of mechanically propelled vehicles and accessories not otherwise specified.

Provided that where any articles referred to in Items Nos. 75 (12) and 75(13) are also ordinarily used otherwise than as parts and accessories of motor vehicles, they shall be dutiable at the rates of duty specified for such articles

Preferential revenue 30% ad valorem 24% ad valorem

Preferential revenue 30% ad valorem 24% ad valorem

Preferential revenue 30% ad valorem 24% ad valorem

5. Additional duties of customs.—When any goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), or under that Schedule read with any notification of the Central Government for the time being in force, are assessed to duty, there shall, up to the 31st day of March, 1952, be levied and collected as an addition to, and in the same manner as, the total amount so chargeable—

(a) a sum equal to 155 per cent. of such amount, in the case of goods comprised in Items Nos. 22(2) and 22(4);

(b) a sum equal to 55 per cent. of such amount, in the case of goods comprised in Items Nos. 48, 48(1), 48(2), 48(4), 48(5), 48(6), 48(7), 48(8), 48(10) and 51(2), and in the case of textile manufactures specified in Item No. 49 when made wholly or mainly of any of the fabrics specified in Items Nos. 48, 48(1), 48(4), 48(5), 48(7) or 48(10);

(c) a sum equal to 45 per cent. of such amount in the case of goods comprised in Items Nos. 47(2), 59(2), 59(4) and 59(5);

(d) a sum equal to 25 per cent. of such amount, in the case of goods comprised in any Item of the said schedule other than those specified in clauses (a), (b) or (c) of this section, or in the Second or Third Schedule to this Act; and

(e) a sum equal to 5 per cent. of such amount, in the case of goods comprised in any of the Items of the said Schedule specified in the Third Schedule to this Act:

Provided that in the case of goods comprised in Items Nos. 48 to 48(10), both inclusive, and in the case of textile manufactures specified in sub-items (a) and (b) of Item No. 49, if the duty of excise for the time being leviable on like goods or, as the case may be, on the fabrics of which such textile manufactures are wholly or mainly made, exceeds the sum of—

(i) the duty of customs chargeable under the First Schedule to the Indian Tariff Act, 1934, or under that Schedule read with any notification of the Central Government for the time being in force, and

(ii) the additional duty of customs chargeable under clause (b) or clause (d) of this section.

there shall, up to the 31st day of March, 1952, be levied and collected as a further addition to, and in the same manner as, the duties of customs so chargeable an amount equal to the aforesaid excess.

6. Imposition and alteration of certain export duties.—In the Second Schedule to the Indian Tariff Act, 1934 (XXXII of 1934) after Item No. 11, the following Items shall be inserted, namely:

12. Ground nuts	Ton	Rs. 80.
13. Cloth, medium and coarse, excluding furnishing fabrics, hosiery, apparel, blankets, bed covers, towels, dusters and napkins.	ad valorem.	10 per cent.

7. Amendment of Act I of 1944, and alteration of certain duties of Central Excise.—In the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944),—

(a) in Item No. 4, in sub-item (a), after the words "motor vehicle" the words "or aircraft" shall be inserted, and

(b) for Item No. 9, the following Item shall be substituted, namely:—

9. TOBACCO

‘Tobacco’ means any form of tobacco, whether cured or uncured, and whether manufactured or not, and includes the leaf, stalks and stems of the tobacco plant, but does not include any part of a tobacco plant while still attached to the earth.

I. Unmanufactured tobacco—

	Per lb
(1) if flue-cured and ordinarily used otherwise than for the manufacture of cigarettes.	One Rupee.
(2) if other than flue-cured and ordinarily used otherwise than for the manufacture of cigarettes.	Eight annas.
(3) if flue-cured and used in the manufacture of cigarettes containing—	
(i) more than 80 per cent weight of imported tobacco.	Seven rupees and eight annas.
(ii) more than 40 per cent but not more than 80 per cent weight of imported tobacco.	Five rupees.
(iii) more than 20 per cent but not more than 40 per cent weight of imported tobacco.	Three rupees and eight annas.
(iv) 20 per cent or less than 20 per cent weight of imported tobacco.	Two rupees and eight annas.
(v) no imported tobacco	One rupee.
(4) if other than flue-cured and used in the manufacture of cigarettes.	Eight annas.
(5) If used for agricultural purposes	Nil.
(6) Stalks	One anna.

II. Manufactured tobacco—

	Per hundred
(1) Cigars and cheroots of which the value—	
(i) exceeds Rs. 30 a hundred	Twelve rupees.
(ii) exceeds Rs. 25 a hundred but does not exceed Rs. 30 a hundred.	Ten rupees.
(iii) exceeds Rs. 20 a hundred but does not exceed Rs. 25 a hundred.	Eight rupees.
(iv) exceeds Rs. 15 a hundred but does not exceed Rs. 20 a hundred.	Six rupees.
(v) exceeds Rs. 10 a hundred but does not exceed Rs. 15 a hundred.	Four rupees.
(vi) exceeds Rs. 5 a hundred but does not exceed Rs. 10 a hundred.	Two rupees.
(vii) exceeds Rs. 2-8-0 a hundred but does not exceed Rs. 5 a hundred.	One rupee.
(viii) exceeds Rs. 1-4-0 a hundred but does not exceed Rs. 2-8-0 a hundred.	Eight annas.
(ix) exceeds 12 annas a hundred but does not exceed Rs. 1-4-0 a hundred.	Four annas.
(2) Cigarettes of which the value—	Per thousand.
(i) exceeds Rs. 50 a thousand	Twelve rupees and eight annas.
(ii) exceeds Rs. 40 a thousand but does not exceed Rs. 50 a thousand.	Ten rupees.
(iii) exceeds Rs. 30 a thousand but does not exceed Rs. 40 a thousand.	Seven rupees and eight annas.

II. Manufactured tobacco.—concl'd.

	Per thousand
(iv) exceeds Rs. 25 a thousand but does not exceed Rs. 30 a thousand.	Six rupees and four annas.
(v) exceeds Rs. 20 a thousand but does not exceed Rs. 25 a thousand.	Five rupees.
(vi) exceeds Rs. 15 a thousand but does not exceed Rs. 20 a thousand.	Three rupees and twelve annas.
(vii) exceeds Rs. 10 a thousand but does not exceed Rs. 15 a thousand.	Two rupees and twelve annas.
(viii) exceeds Rs. 7-8-0 a thousand but does not exceed Rs. 10 a thousand.	One rupee and eight annas.
(ix) does not exceed Rs. 7-8-0 a thousand	One rupee.
	Per lb.
(3) Pipe tobacco	Six rupees and eight annas.
(4) Snuff	Eight annas.
(5) Biris—	Per thousand.
(i) containing more than 3/4 lb. of tobacco per thousand biris.	Nine annas.
(ii) containing not more than 3/4 lb. of tobacco per thousand biris.	Six annas.

8. Additional duties of excise.—When any goods chargeable with a duty of excise under the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944), are assessed to duty, there shall, up to the 31st day of March, 1952, be levied and collected as an addition to, and in the same manner as, the total amount so chargeable—

(a) as respects kerosene and motor spirit as defined in Items Nos. 1 and 4, respectively, of that Schedule, a surcharge equal to 5 per cent. of such amount in each such case;

(b) as respects cigarettes specified in Item No. 9II (2).

(i) where the retail price is at a rate exceeding 2 annas, but not exceeding 5½ annas per ten cigarettes, a surcharge calculated at three pies for every ten cigarettes, and

(ii) where the retail price is at a rate exceeding 5½ annas per ten cigarettes, a surcharge calculated at the rate of six pies for every ten cigarettes.

9. Discontinuance of salt duty.—For the year beginning on the 1st day of April, 1951, no duty shall be levied on salt manufactured in, or imported by sea or land into, the territory of India excluding the State of Jammu and Kashmir.

Declaration under the Provisional Collection of Taxes Act 1931.—It is hereby declared that it is expedient in the public interest that the provisions of clauses 4, 5, 6, 7 and 8 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

THE FIRST SCHEDULE

(See section 2)

PART I

Rates of Income-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or paragraph C of this Part applies—

	Rate	Surcharge
1. On the first Rs. 1,500 of total income.	Nil . . .	Nil.
2. On the next Rs. 3,500 of total income.	Nine pies in the rupee.	One twentieth of the rate specified in the preceding column.
3. On the next Rs. 5,000 of total income.	One anna and nine pies in the rupee.	Do.
4. On the next Rs. 5,000 of total income.	Three annas in the rupee.	Do.
5. On the balance of total income.	Four annas in the rupee.	Do.

Provided that—

(i) no income-tax shall be payable on a total income which before deduction of the allowance, if any, for earned income, does not exceed the limit specified below;

(ii) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit;

(iii) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(a) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds the said limit the same proportion as such reduced total income bears to the unreduced total income, or

(b) the income-tax payable on the income so reduced at the rates herein specified,— whichever is less.

The limit referred to in the above proviso shall be—

(i) Rs. 7,200 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely:—

(a) that it has at least two members entitled to claim partition who are not less than 18 years of age; or

(b) that it has at least two members entitled to claim partition neither of whom is a lineal descendant of the other and both of whom are not lineally descended from any other living member of the family; and

(ii) Rs. 3,600 in every other case.

Explanation.—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the co-parcenary property against his father or grandfather, notwithstanding any custom to the contrary.

B. In the case of every company—

	Rate	Surcharge
On the whole of total income	Four annas in the rupee.	One-twentieth of the rate specified in the preceding column.

Provided that in the case of a company which, in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1952, has made the prescribed arrangements for the declaration and payment within the territory of India excluding the State of Jammu and Kashmir, of the dividends payable out of such profits, and has deducted super-tax from the dividends in accordance with the provisions of sub-section (3-D) or (3-E) of section 18 of that Act—

(i) where the total income, as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends (including dividends payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1952, and no order has been made under sub-section (1) of section 23-A of the Income-tax Act, a rebate shall be allowed, at the rate of one anna per rupee on the amount of such excess;

(ii) where the amount of dividends referred to in clause (i) above exceeds the total income as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess (hereinafter referred to as “the excess dividend”) falls short of the amount calculated at the rate of five annas per rupee on the excess dividend.

For the purposes of the above proviso, the expression “dividend” shall have the meaning assigned to it in clause (6-A) of section 2 of the Income-tax Act, but any distribution included in that expression, made during the year ending on the 31st day of March, 1952, shall be deemed to be a dividend declared in respect of the whole or part of the previous year.

For the purposes of clause (ii) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determined as follows:—

(i) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year;

(ii) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax,—

(a) If an order has been made under sub-section (1) of section 23-A of the Income-tax Act, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(b) in respect of any other year, at the rate applicable to the total income of the company, for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

C. In the case of every local authority and in every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate—

	Rate	Surcharge
On the whole of total income	Four annas in the rupee.	One twentieth of the rate specified in the preceding column.

PART II

Rates of Super-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

	Rate	Surcharge
1. On the first Rs. 25,000 of total income.	Nil	Nil.
2. On the next Rs. 15,000 of total income.	Three annas in the rupee.	One-twentieth of the rate specified in the preceding column.
3. On the next Rs. 15,000 of total income.	Four annas in the rupee.	Do.
4. On the next Rs. 15,000 of total income.	Six annas in the rupee.	Do.
5. On the next Rs. 15,000 of total income.	Seven annas in the rupee.	Do.
6. On the next Rs. 15,000 of total income.	Seven and a half annas in the rupee.	Do.
7. On the next Rs. 50,000 of total income.	Eight annas in the rupee.	Do.
8. On the balance of total income.	Eight and a half annas in the rupee.	Do.

B. In the case of every local authority:—

	Rate	Surcharge
On the whole of total income	Two and a half annas in the rupee.	Three pice in the rupee.

C. In the case of an association of persons being a co-operative society (other than the Sanikatta Saltowners' Society in the State of Bombay) for the time being registered under the Co-operative Societies Act, 1912 or under any law of a State governing the registration of co-operative societies—^{I of 1912}

	Rate	Surcharge
1. On the first Rs. 25,000 of total income.	Nil	Nil.
2. On the balance of total income.	Two and a half annas in the rupee.	Three pies in the rupee.

D. In the case of every company:—

Rate

On the whole of total income . . . Four annas and nine pies in the rupee :

Provided that—

(i) a rebate at the rate of three annas per rupee of the total income shall be allowed in the case of any company which—

(a) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1952, has made the prescribed arrangements for the declaration and payment in the territory of India excluding the State of Jammu and Kashmir of the dividend payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of that Act, and

(b) is a public company with total income not exceeding Rs. 25,000;

(ii) a rebate at the rate of two annas per rupee of the total income shall be allowed in the case of any company which satisfies condition (a), but not condition (b), of the preceding clause; and

(iii) a rebate at the rate of one anna per rupee of the total income shall be allowed in the case of any company which, not being entitled to a rebate under either of the preceding clauses, is—

(a) a public company whose shares were offered for sale in a recognised stock exchange at any time during the previous year, or

(b) a company all of whose shares were held at the end of the previous year by one or more such public companies as aforesaid:

Provided further that the super-tax payable by a company the total income of which exceeds Rs. 25,000 shall not exceed the aggregate of—

(a) the super-tax which would have been payable by the company if its total income had been Rs. 25,000, and

(b) half the amount by which its total income exceeds Rs. 25,000.

VII of 1913

Explanation.—For the purposes of this paragraph of this Part, a company shall be deemed to be a public company only if it is neither a private company within the meaning of the Indian Companies Act, 1913, nor a company in which shares carrying more than fifty per cent. of the total voting power were, at any time during the previous year, held or controlled by less than six persons.

THE SECOND SCHEDULE

(See section 5)

Goods on which additional duty of customs is not leviable.

Goods comprised in the following Items of the First Schedule to the Indian Tariff Act, 1934, namely—

2, 4(1), 4(3), 4(4), 4(5), 7(1), 8(4), 8(5), 9(6), 9(7), 12(6), 13(8), 13(9), 15(5), 15(10), 15(11), 15(12), 16, 16(1), 16(3), 20(6), 20(7), 21(4), 21(5), 21(6), 21(7), 21(8), 21(9), 22(3), 22(5), 27(1), 27(3), 27(9), 28(21), 28(22), 28(23), 28(24), 28(25), 28(26), 28(27), 28(28), 28(29), 28(30), 30(2), 30(11), 30(12), 30(13), 31(4), 40(6), 40(7), 44(1), 45(3), 49(c), 49(2), 52(4), 53(2), 55(1), 55(2), 55(3), 60(4), 60(5), 61(11), 71(9), 71(10), 72(4), 72(5), 72(15), 72(16), 72(17), 72(18), 72(19), 72(20), 72(21), 72(22), 72(23), 72(24), 72(25), 72(26), 72(27), 72(28), 73(4), 73(8), 73(9), 73(10), 73(11), 73(12), 73(13), 74(4), 77(4), 78(1), 79 and 84(1).

THE THIRD SCHEDULE

(See section 5)

Goods on which additional duty of customs at 5 per cent. is leviable.

Goods comprised in the following Items of the First Schedule to the Indian Tariff Act, 1934, namely,—

4, 8(2), 8(3), 9(5), 11(2), 11(4), 11(5), 13(4), 15, 20(1), 20(2), 20(3), 20(4), 20(5), 20(8), 20(9), 21(3), 24, 24(1), 24(2), 24(3), 25(1), 27(2), 27(4), 27(5), 27(6), 28, 28(8), 28(14), 28(15), 28(16), 28(17), 28(18), 28(19), 28(20), 29, 29(1), 30, 30(1), 30(9), 30(10), 34(3), 40(4), 40(5), 43, 44, 45, 46(3), 51, 55, 60, 60(2), 60(3), 60(6), 61(2), 61(3), 61(8), 61(9), 62(1), 62(2), 63(14), 63(30), 63(31), 63(32), 63(33), 63(34), 63(35), 64, 64(3), 64(4), 65, 66, 66(1), 67, 67(1), 67(2), 68, 68(2), 69(2), 70, 70(1), 70(2), 70(3), 70(4), 70(5), 70(6), 70(9), 71(2), 71(3), 71(7), 71(8), 72, 72(1), 72(2), 72(3), 72(11), 72(12), 72(13), 72(14), 72(33), 73(2), 73(7), 73(14), 73(15), 74(2), 75, 75(1), 75(2), 75(3), 75(5), 75(6), 75(7), 75(8), 75(9), 75(10), 75(11), 75(12), 75(13), 77(2), 77(5), 78, 82(1), 84 and 85(1).

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to give effect to the financial proposals of the Government of India for the next financial year, and to provide for certain connected matters.

The Bill prescribes, as usual, the rates of income-tax and super-tax and surcharges thereon, for the next financial year. The main changes from the existing rates are:

(a) the imposition of a surcharge of 5 per cent. for purposes of the Union, on all income-tax and super-tax

rates, other than the super-tax rates applicable to companies, local authorities, and co-operative societies;

(b) the imposition of a surcharge of 3 pies in the rupee, for purposes of the Union, on the super-tax rate applicable to local authorities, and co-operative societies; and

(c) an increase by 3 pies in the rupee in the rate of super-tax applicable to companies.

An amendment is also made to section 17 in regard to the basis of assessment of non-residents.

In regard to import duties, the Bill proposes to increase the existing surcharges by 5 per cent., and to levy enhanced duties on certain alcoholic drinks and mineral oils other than motor spirit and kerosene. It is also proposed to reimpose a low export duty on groundnut kernel and coarse and medium cloth of certain varieties. It is further proposed to rationalise the Central Excise tariff relating to tobacco so as to remove certain anomalies and administrative difficulties in its working and simultaneously to revise the basis of taxation in a manner to permit of the levy of leaf duties in accordance with the type of tobacco and additional duties on manufacture of tobacco according to the class of manufacture. A surcharge on cigarettes is also proposed as a revenue measure for the current year.

C. D. DESHMUKH,

NEW DELHI;

The 28th February, 1951.

NOTES ON CLAUSES

Clause 2 and the First Schedule prescribe the rates of income-tax, super-tax and surcharges on income-tax and super-tax for the year, 1951-52, on the usual lines.

Clause 3 amends sub-section (1) of section 17 of the Indian Income-tax Act, 1922. At present, a non-resident citizen of India or a British subject is chargeable to income-tax on his Indian income at the rate appropriate to his total world income, while any other a non-resident pays income-tax at the standard or maximum rate. The amendment seeks to abolish any distinction based on nationality, and to apply the standard rate of income-tax to all non-residents.

As regards super-tax, it is proposed that all non-residents other than companies should pay super-tax at a flat rate, subject to the condition that the amount of super-tax shall not be less than that payable by a resident having the same total income.

All non-residents are, however, being allowed to exercise, within a certain time limit, the option of being assessed on the basis now applicable to a non-resident who is a citizen of India or a British subject.

Clause 4: The main changes made in the import tariff are those relating to mineral oils other than kerosene and motor spirit, and cover mineral oils suitable for use as illuminants, for the batching of jute, as fuel or for sanitary and hygienic purposes and as lubricating oils. In order to make the incidence of the duty more even and rational, as an alternative to the

specific rates, a limit of 20 per cent. *ad valorem*, if it is higher, has been prescribed. The clause also revises the headings relating to assessment of parts and accessories of motor vehicles following the recommendations of an Expert Committee. The main change is the transfer from the highest duty category to a lower category of certain parts and accessories which are either proprietary items or are not capable of being manufactured in India within two years.

Clause 5: The main changes in regard to additional duties or surcharges are (a) the overall increase of 5 per cent. in the scale of surcharges as prescribed in the Finance Act, 1950, (b) the levy of surcharges on all items other than those for which the rates of duty have been bound under the General Agreement on Tariffs and Trade, and (c) the enhancement of the basic surcharge from 100 per cent. to 150 per cent. in the case of certain categories of alcoholic drinks.

Clause 6: The export duty on groundnut will be at the level of the duty formerly levied in 1948, namely Rs. 80 per ton. In regard to cloth, only certain categories of medium and coarse cloth will pay the duty. Superfine and fine cloth as well as certain varieties even in the above categories are exempt.

Clauses 7 and 8: The main change is in regard to the rationalisation of the taxation headings relating to tobacco and tobacco products. The change is intended to introduce a more logical basis of taxation on leaf tobacco according to its category (flue-cured or other than flue-cured) and ordinary use; and to secure the levy of flat rates of leaf duty on tobacco used otherwise than in the manufacture of cigarettes, and of graduated rates of duty on tobacco leaf used in the manufacture of cigarettes, cigars and on manufactured products, namely, cigarettes, cigars and cheroots, pipe tobacco, snuff and biris. A surcharge is being levied on kerosene and motor spirit to equal the customs surcharge which has become leviable under Clause 5. A surcharge is also levied at graduated rates on certain categories of cigarettes other than the cheapest.

Clause 9: The discontinuance of the salt duty is maintained for the next year.

The following Bills were introduced in Parliament on the 5th March, 1951:—

BILL NO. 14 OF 1951

A Bill further to amend the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Codes of Civil and Criminal Procedure (Amendment) Act, 1951.

2. Amendment of Act V of 1908.—In the Code of Civil Procedure, 1908,—

(i) to section 118, the following proviso shall be added, namely:—

“Provided that where the court is satisfied that a case pending before it involves a question as to the validity of any

Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that court is subordinate or by the Supreme Court, the court shall state a case setting out its opinion and the reasons therefor, and refer the same for the opinion of the High Court.

Explanation.—In this section, “Regulation” means any Regulation of the Bengal, Bombay or Madras Code or Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.”;

(ii) in Order XLVI of the First Schedule,—

(a) after rule 4, the following rule shall be inserted, namely:—

“4A. The provisions of rules 2, 3 and 4 shall apply to any reference by the court under the proviso to section 118 as they apply to a reference under rule 1”; and

(b) in rule 5, after the words and figure “under rule 1” the words and figures “or under the proviso to section 118” shall be inserted.

3. Substitution of new section for section 432 in Act V of 1898.—For section 432 of the said Code, the following section shall be substituted, namely:—

“432. Reference to High Court.—(1) Where any court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that court is subordinate or by the Supreme Court, the court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court.

Explanation.—In this section, “Regulation” means any Regulation of the Bengal, Bombay or Madras Code or Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.

(2) A presidency magistrate may, if he thinks fit in any case pending before him to which the provisions of sub-section (1) do not apply, refer for the decision of the High Court any question of law arising in the hearing of such case.

(3) Any court making a reference to the High Court under sub-section (1) or sub-section (2) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.”

STATEMENT OF OBJECTS AND REASONS

During the last year, a few cases have come to notice in which subordinate courts have taken upon themselves the grave responsibility of declaring enactments of the Legislature to be void under the Constitution.

Article 228 of the Constitution casts on every High Court an obligation to withdraw from a subordinate court any case if it is satisfied that the case involves a substantial question of law as to the interpretation of the Constitution, and then either dispose of the case itself or determine the question of law and remit it to the subordinate court for disposal. The invalidity of an enactment must necessarily give rise to a substantial question of law as to the interpretation of the Constitution.

It is no doubt possible for parties who are vigilant enough, to apply to the High Court in time under Article 228 of the Constitution for withdrawing a case from a subordinate court, instead of allowing that court to pronounce on the validity or invalidity of an enactment, and this is equally true of Government in criminal cases. In practice, however, they often fail to take prompt action. The result, in the words of Cooley, the well-known writer on American constitutional law, is that we have "the ludicrous spectacle of an inferior magistrate having merely police or other limited jurisdiction assuming to pass judgment upon the legislation of a State or country and declare it invalid." The responsible duty of declaring an enactment invalid, and thereby overruling the solemn decision of the Legislature, should be discharged only by the superior courts of the country.

This Bill accordingly proposes to amend section 118 of the Code of Civil Procedure and section 432 of the Code of Criminal Procedure so as to make it obligatory on the part of the subordinate courts to make a reference to the High Court in every case where the subordinate court is satisfied—

- (a) that the case before it involves a question as to the validity of an enactment, the determination of which is necessary for the disposal of the case;
- (b) that the enactment has not been authoritatively declared to be invalid; and
- (c) that in its own opinion the enactment is invalid or inoperative.

B. R. AMBEDKAR.

NEW DELHI;

The 1st March, 1951.

BILL No. 15 OF 1951

A Bill further to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Delhi and Ajmer-Merwara Rent Control (Amendment) Act, 1951.

2. Amendment of section 1, Act XIX of 1947.—In sub-section (3) of section 1 of the Delhi and Ajmer-Merwara Rent Control Act, 1947,—

(i) for the words "for a period of two years" the words "for a period of six years from that date" shall be substituted;

(ii) the first proviso shall be omitted; and

(iii) in the second proviso, the word "further" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Delhi and Ajmer-Merwara Rent Control Act was enacted in 1947 with a view to provide for the control of rents and evictions, and for the lease to Government of premises upon their becoming vacant in certain areas in the Provinces (now States) of Delhi and Ajmer-Merwara. The Act came into force on the 24th March, 1947. It was to be effective for an initial period of two years and there was a provision in the Act for extending it for a further period not exceeding two years, by notification, in the Official Gazette. On the expiry of the initial period of two years, the Act was extended for a further period of two years by means of a notification. This period is due to expire on the 28th March, 1951. The acute shortage of housing accommodation and the tendency on the part of unscrupulous landlords to exploit the situation and to profitseer in rent, which necessitated this enactment, persist, and the accommodation problem to-day continues to be almost desperate. There is therefore need for the continuance of the Rent Control measures to meet the situation which will arise on the 24th March, 1951. The Bill is intended to secure that the provisions of the present Delhi and Ajmer-Merwara Rent Control Act are retained for a further period of two years.

N. V. GADGIL.

NEW DELHI;

The 24th February, 1951.

M. N. KAUL,
Secretary.

